



**THE ATTORNEY GENERAL  
OF TEXAS**

**GERALD C. MANN**

**XXXXXXXXXXXXXXXXXXXXX  
ATTORNEY GENERAL**

**AUSTIN 11, TEXAS**

Honorable John R. Shook  
Criminal District Attorney  
Courthouse  
San Antonio, Texas

Attention: Mr. Jay Sam Levey

Dear Sir:

Opinion No. O-3688

Re: Legality of ordering and holding  
a bond election in a common  
school district pursuant to pro-  
visions of Articles 2784 to 2787,  
of the Revised Civil Statutes,  
where a similar bond issue has  
been defeated within less than a  
year of the proposed new bond  
election.

We have your letter of June 14, 1941, requesting our opinion on the following question: "Is it legal to order and hold a bond election in a common school district pursuant to the provisions of Articles 2784 through 2787 of the Revised Civil Statutes of Texas, where a similar bond issue has been defeated within less than a year of the proposed new bond election?"

Article 2784 of Vernon's Annotated Civil Statutes authorized the levy of a special tax for maintenance purposes within common and independent school districts and provides that not exceeding Fifty Cents (50¢) on the one hundred dollars of taxable valuation within any such district shall ever be levied for bond purposes. It also fixes a limit of One Dollar upon the one hundred dollar valuation of taxable property for both purposes, that is maintenance and bond. Article 2785 prescribes the manner of holding elections to authorize the levy of a maintenance tax. Article 2786 provides the method for voting bonds in common and independent school districts. Said article reads as follows:

"Whenever the proposition to issue bonds is to be voted on in any common or independent school district hereunder, the petition, election order and notice of election must distinctly specify the amount of the bonds, the rate of interest, their maturity dates, and the purpose for which the bonds are to be used. The ballots for such election shall have written or printed thereon the words 'For the issuance of bonds and the levying of the tax in payment thereof,' and 'Against the issuance of bonds and the levying of the tax in payment thereof.' Such bonds shall bear not more than

five per cent interest per annum and shall mature in serial annual installments over a period of not exceeding forty years from their date; provided, that when the houses are to be built of wood, said bonds shall mature in not more than twenty years from their date. Such bonds shall be examined by the Attorney General and if approved registered by the Comptroller. All bonds shall be sold to the highest bidder for not less than their par value and accrued interest, and the proceeds of such sale shall be deposited in the county depository for the common school districts, and in the district depository for the independent school districts, to the credit of such districts, and shall be disbursed only for the purpose for which the said bonds were issued, on warrants issued by the district trustees and approved by the county superintendent for common school districts, and by the president of the board of trustees and countersigned by the secretary of the said board for independent districts. (Id.; as amended Acts 1929, 41st Leg., 1st C.S., p. 97, ch. 43, § 1.)"

We do not find in said article any restriction or limitation as to the time when bond elections may be held. It is true that in Article 2785 this sentence appears "If said maintenance tax proposition is defeated at an election held for such purpose, no other election shall be held therein within one year from the date of said election." It will be noted that this restriction is imposed upon the holding of maintenance tax elections. The same restriction does not appear in the statute authorizing the holding of elections for the purpose of voting bonds.

Therefore you are advised that in our opinion a bond election may be called and held at any time irrespective of the success or failure of an election previously held, whether within a year or more than a year from the date of the proposed new bond election,

Trusting that this satisfactorily answers your inquiry, we are

Yours very truly

APPROVED JUL 18, 1941

ATTORNEY GENERAL OF TEXAS

/s/ Grover Sellers

FIRST ASSISTANT  
ATTORNEY GENERAL

By /s/ Clarence E. Crowe  
Assistant

CEC:ej:da

APPROVED OPINION COMMITTEE BY BWB CHAIRMAN